

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2004-336-C – Order No. 2005-4  
JANUARY 6, 2005

IN RE:	Petition of Evercom Systems, Inc. for	)	DECLARATORY ORDER
	Declaratory Order and for Approval <i>Nunc Pro</i>	)	
	<i>Tunc</i> of Revisions to its Existing Tariff or in	)	
	the Alternative, Application to Amend	)	
	Certificate of Public Convenience and	)	
	Necessity and Approval <i>Nunc Pro Tunc</i> of	)	
	Revisions of its Existing Tariff.	)	

**I. INTRODUCTION**

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the Petition of Evercom Systems, Inc. (“Evercom” or the “Company”) in which the Company seeks an order (i) declaring that the authority granted Evercom in its Certificates of Public Convenience and Necessity includes, among other telecommunications services, the authority to offer debit services to confinement facilities in South Carolina and (ii) approving *nunc pro tunc* revisions to its existing, Commission approved inmate telecommunications services tariff. Evercom’s Petition also contains a request for alternative relief which, based upon the Commission’s rulings set forth herein, is moot.

**II. FINDINGS OF FACT**

After carefully considering Evercom’s Petition for Declaratory Order, including all the exhibits attached thereto, the Commission makes the following findings of fact:

1. Evercom is a telephone utility as defined by S.C. Code Ann. § 58-9-10 (1976) and currently provides inmate telecommunications services to confinement facilities in South Carolina under the provisions of Chapter 9 of Title 58 of the South Carolina Code. Accordingly, Evercom is subject to the jurisdiction of the Commission.

2. As the result of certain mergers and acquisitions, Evercom currently holds three (3) Certificates of Public Convenience and Necessity as issued by the Commission. More specifically, Evercom holds Certificates of Public Convenience and Necessity originally issued to (i) Coin Telephones, Inc. pursuant to Commission Order No. 91-122, (ii) AmeriTel Payphones, Inc. pursuant to Commission Order No. 97-53, and (iii) Talton Invision, Inc. (“Talton Invision”)<sup>1</sup> pursuant to Commission Order No. 98-265.

3. The specific language most material to Evercom’s Petition for Declaratory Order is found in the Certificate of Public Convenience and Necessity granted by Commission Order No. 98-265 to Evercom under its former corporate name – Talton Invision. The operative language of Commission Order No. 98-265 relevant to Evercom’s petition is as follows:

**CONCLUSIONS OF LAW**

...

2. The Commission also determines that a Certificate of Public Convenience and Necessity should be granted to Talton Invision to provide inmate telecommunications service to jails and correctional facilities located in South Carolina.

[Order No. 98-265 at p.6] [emphasis in original].

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<sup>1</sup> Pursuant to Commission Order No. 98-818, Talton Invision changed its corporate name to Evercom.

4. Through excusable inadvertence as more particularly described in Evercom's petition, the Company believed that it had filed with the Commission proposed revisions to its existing tariff, requesting approval of (i) a provision authorizing Evercom to provide debit services to confinement facilities in South Carolina, (ii) the rates and charges associated with Evercom's debit services and (iii) certain definitions associated with Evercom's debit services.

5. In July 2001, Evercom began offering debit services to confinement facilities in South Carolina in accordance with the proposed revisions to its tariff, including the rate schedule attached to Evercom's Petition. More specifically, Evercom provided telecommunications services to inmates using the Company's debit services for a per-minute (or any portion thereof) usage charge of fifty-cents (\$0.50).

### **III. CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact and the evidence in this case, the Commission concludes, as a matter of law, the following:

6. The operative language in Commission Order No. 98-265 is clear and unambiguous and states that "[a] Certificate of Public Convenience and Necessity should be granted to Talton Invision *to provide inmate telecommunications service to jails and correctional facilities located in South Carolina.*" [emphasis supplied]. The scope of this language is unrestricted and clearly allows Evercom to offer debit services, including without limitation debit card and account services, to confinement facilities in South Carolina. Moreover, the scope of this language is not limited to debit or collect only

services but allows for the provision of any telecommunications services permitted or requested by jails and confinement facilities for the inmate population.

7. In conclusion, after careful review, consideration, and examination of Evercom's Certificates of Public Convenience and Necessity and specifically Commission Order No. 98-265, the Commission concludes, as a matter of law, that Evercom has the authority to offer, among other telecommunications services, debit card and debit account services to jails and confinement facilities in South Carolina.

8. Further, the proposed revisions submitted by Evercom to its existing, Commission approved inmate telecommunications services tariff, which are attached to Evercom's Petition, are found to be fair and reasonable and should be approved *nunc pro nunc* effective July 1, 2001.

9. Finally, in light of the above findings and conclusions, Evercom's request for alternative relief is moot.

#### **IV. ORDER**

NOW THEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law, IT IS HEREBY DECLARED, ADJUDGED, AND ORDERED THAT:

1. The authority granted to Evercom in its Certificates of Public Convenience and Necessity and specifically Commission Order No. 98-265 allows Evercom to offer a broad range of telecommunications services, including, without limitation, the authority to offer debit card and debit account services to jails and confinement facilities in South Carolina.

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2. The proposed revisions submitted by Evercom to its existing, Commission approved inmate telecommunications services tariff, which are attached to Evercom's Petition, are hereby approved *nunc pro nunc* effective July 1, 2001.

3. In light of the rulings stated herein, Evercom's request for alternative relief is moot.

4. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/  
Randy Mitchell, Chairman

ATTEST:

/s/  
G. O'Neal Hamilton, Vice Chairman

(SEAL)